

# ATTACHMENT 14

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

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IN RE: DA VINCI SURGICAL )  
ROBOT ANTITRUST )  
LITIGATION, )  
 )  
----- ) NO. 3:21-cv-03825-VC  
 )  
THIS DOCUMENT RELATES TO: )  
ALL CASES )  
 )  
----- )  
 )  
SURGICAL INSTRUMENT )  
SERVICE COMPANY, INC., )  
 )  
 )  
Plaintiff, )  
vs. )  
 )  
INTUITIVE SURGICAL, INC., )  
 )  
Defendant. )  
 )

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VIDEOTAPED ZOOM DEPOSITION  
  
UPON ORAL EXAMINATION OF  
  
MARK EARLY

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Thursday, October 6, 2022

Miami, Florida

REPORTED BY: VICKY L. PINSON, RPR-CCR Washington 2559  
California No. 9845; Oregon No. 16-0442

A P P E A R A N C E S

FOR THE PLAINTIFF:

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VIDEOGRAPHER:

LORI TALBOTT, Legal Videographer, CLVS  
Veritext Legal Solutions

1 MR. LAZEROW: Check what? I'm sorry,  
2 Kevin, we couldn't hear that.

3 MR. LOVE: I said check his parking.

4 MR. LAZEROW: Oh, okay.

5 MR. LOVE: You have to wait 18 seconds.  
6 Andrew, if you could just wait 15 seconds, he's got to  
7 re-do his parking.

8 MR. LAZEROW: Okay.

9 MR. LOVE: It's weird. It won't let you  
10 do it till it's over.

11 All right. Please read the email.

12 THE WITNESS: Okay.

13 MR. LOVE: And I think, Andrew, when  
14 you're done with this exhibit, maybe we'll break for  
15 lunch?

16 MR. LAZEROW: (Nods head affirmatively.)

17 A. Okay.

18 Q. So now that you've had a chance to review that  
19 email, does it outline the -- some of the financial  
20 aspects that are being discussed as of this time  
21 between Intuitive and Larkin for the purchase of two Da  
22 Vinci Surgical Systems?

23 A. Yeah. It looks like an outline of the  
24 agreement.

25 Q. Why at this time was Larkin contemplating

1 buying two surgical systems as opposed to one?

2 A. At that time I believe one was for  
3 urology-related procedures, the other was for  
4 different -- a different procedure other than  
5 urology-type procedures.

6 Q. Which one did Larkin intend to use for  
7 urology, the SI or the XI? Do you know?

8 A. It's my understanding that they needed the SI  
9 to do urology and the XI for other.

10 Q. And the, the -- was the reason that Larkin  
11 wanted a -- an SI for urology was because Dr. Razdan  
12 was going to be joining?

13 A. I don't remember which was which, whether the  
14 SI or the XI was for -- which device was for urology  
15 and which one wasn't. I just remember one was -- that  
16 was the reason. And of course the only person that was  
17 going to do urology was Razdan.

18 Q. And at this time do you recall whether you  
19 knew how many cases Larkin was projecting it would do  
20 for urological procedures?

21 A. No, I don't remember.

22 Q. Okay. And by this point, the other unit was  
23 going to be used by Dr. Estape. Isn't that right?

24 A. Yes. And -- and -- and potentially other.

25 Q. Do you recall how many procedures at this time

1 been pulled by whoever pulled this for this  
2 spreadsheet? Do you see that?

3 A. Yeah, I do. Yeah.

4 Q. And then the next line says the net income  
5 cash was \$600,137. Do you see that?

6 A. Um-hmm.

7 Q. So according to this spreadsheet that we're  
8 looking at, the -- there was a net loss on the  
9 procedures for Dr. Estape as of this time of over  
10 600,000. Is that -- that's the way this document  
11 reads. Is that correct?

12 A. Yes. Yeah, it was a startup. Yep.

13 Q. Okay. Is it consistent with your recollection  
14 that for the first few months that Dr. Estape was  
15 performing robotic surgeries that Larkin lost over  
16 \$600,000?

17 A. According to this report, yes, but -- I would  
18 say yeah.

19 Q. Okay, I understand. I -- we, we all can look  
20 at the document. And I know you, you don't know who  
21 prepared it, and you've already, you know, you've given  
22 us testimony.

23 What I'm trying to understand is independent  
24 of the document, do you have a recollection of the --  
25 of Larkin having a net loss in terms of the cash

1 brought in versus the expenses of Dr. Estape's robotics  
2 program for the first few months of around \$600,000?

3 A. Yeah, I would say this is reasonable.

4 Q. Okay. And then at the bottom -- let's see.

5 Yeah, she's got it. She's got it. You can stay there.  
6 You'll see that it says: Surgical cases, 145.

7 Do you see that?

8 A. Yeah, I do. Yeah.

9 Q. Okay. Do you -- do you recall how many cases,  
10 if any, Larkin assumed that Dr. Estape would perform in  
11 a year at the time that they were considering whether  
12 to bring him into Larkin?

13 A. I don't know that information, no.

14 Q. Okay. The next row down says: Intuitive  
15 Invoices.

16 Do you see that one?

17 A. Yeah, I do.

18 Q. And at the end of it, it, it comes to, you  
19 know, after doing some math, it looks like comes to a,  
20 a number of \$3,862 per case. Do you see that?

21 A. Yeah, I do. Yeah.

22 Q. And do you recall -- is it consistent with  
23 your recollection that Larkin was paying 3 -- around  
24 \$3,800 for the equipment per case for the Da Vinci  
25 Surgical System?

REPORTER'S CERTIFICATE

I VICKY L. PINSON, RPR-CCR, the undersigned  
Certified Court Reporter, authorized to administer  
oaths and affirmations in and for the states of  
Washington, Oregon and California, do hereby certify:

That the sworn testimony and/or proceedings, a  
transcript of which is attached, was given before me at  
the time and place stated therein; that the witness was  
duly sworn or affirmed to testify to the truth; that  
the testimony and/or proceedings were stenographically  
recorded by me and transcribed under my supervision.

That the foregoing transcript contains a full,  
true, and accurate record of all the testimony and/or  
proceedings occurring at the time and place stated in  
the transcript; that a review of which was requested.

That I am in no way related to any party to the  
matter, nor to any counsel, nor do I have any financial  
interest in the event of the cause.

WITNESS MY HAND this 27th day of October, 2022.



VICKY L. PINSON, RPR-CCR

Washington Certified Court Reporter, No. 2559

Oregon State Certified Court Reporter, No. 16-0442

California State Certified Court Reporter, No. 9845

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